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FISCAL IMPACT STATEMENT

LS 6509 | **NOTE PREPARED:** Apr 1, 2005
BILL NUMBER: HB 1142 | **BILL AMENDED:** Mar 31, 2005

SUBJECT: Life Insurance and Medicaid.

FIRST AUTHOR: Rep. Brown T | **BILL STATUS:** CR Adopted - 2nd House
FIRST SPONSOR: Sen. Kenley

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State

Summary of Legislation: (Amended) *Funeral and Cemetery Expenses:* This bill requires the Division of Family and Children to pay funeral director and cemetery expenses incurred for an individual receiving or certified to receive certain public assistance. The bill also provides that the Division has a preferred claim against a decedent's estate that has sufficient assets to pay the funeral director and cemetery expenses. The bill increases the amount contributed from friends, relatives, and the decedent's estate that the Division may not consider in determining the amount to be paid for the funeral director or cemetery expenses.

Life Insurance in the Medicaid Program: This bill also allows the state to use federal or state Medicaid funds to pay life insurance premiums for a Medicaid recipient or applicant who has assigned the life insurance policy to the state or made the state a beneficiary of the life insurance policy. The bill requires the Office of Medicaid Policy and Planning (OMPP) to provide certain information to individuals before the assignment of a life insurance policy and specifies the distribution of the remainder of the insurance proceeds after the state recoups the state's Medicaid expenses for the individual.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) *Funeral and Cemetery Expenses:* Under current statute, the Director of the Division of Family and Children has some discretion on the amount to pay for a funeral director's expenses and for cemetery expenses after taking into account the ability of the estate to pay these expenses. This bill removes this discretion and requires the entire funeral director's and cemetery expenses to be paid, with subsequent recovery by the Division from those estates that are sufficient to pay all or part of the expenses. Presumably, regarding this recovery provision, the net amounts paid by the state after recovery from the estate could be similar in either situation. However, the bill would increase the administrative burden, time, and legal expenses of the state associated with the recovery of these expenses.

The bill also increases the amount of contributions from friends, relatives, and the resources of the deceased that may be sheltered from consideration by the state when determining the amount that is to be paid to a funeral director or for cemetery expenses. The amount that may not be considered regarding funeral directors is increased by the bill from $750 to $1,750. The amount that may not be considered for cemetery expenses is increased from $200 to $400. This will likely result in additional expenditures that must be paid by the state. [For example, if the resources of the deceased total $1,000 and the bill for funeral expenses is $3,000, under current statute, only $250 of the resources may go toward funeral expenses ($1,000 less $750). However, under the provisions of the bill, because of the increase to $1,750, the entire $1,000 would be sheltered from the payment for funeral expenses.]

Background Information on Funeral and Cemetery Expenses: The Burial Assistance Program, although requiring the deceased to have been a Medicaid recipient, is funded with state dollars only. Any additional assistance payments or legal expenses would represent additional expenditures from the state General Fund. There was an average of about 2,000 unduplicated recipients per year representing an average annual expenditure of about $1.8 M during the four-year period from FY 2001 through FY 2004 for this program. This bill would require this amount to be paid to funeral directors and cemeteries, some of which may be subsequently recovered from estates. This does not include any additional legal expenses that may be incurred in the recovery process.

(Revised) *Life Insurance in the Medicaid Program:* According to OMPP, there is currently no authority for states to pay life insurance premiums under the Medicaid program, so there would be no federal financial participation for this type of expenditure. Since this is a "may" provision which likely requires staff resources to implement, presumably the state would only choose to do this with state-only dollars in the specific instances when it was in the state's interest to do so. Consequently, there should be no net fiscal cost associated with this provision. There could potentially be additional recoupments of Medicaid expenditures.

As for the consideration of life insurance policies in the Medicaid Program, according to OMPP, Medicaid recipients currently can exempt the cash value of a whole life insurance policy whose face value is $10,000 or less and the beneficiary of the policy is the funeral director who will be providing services. Otherwise, the cash value is considered a countable resource. A Medicaid applicant for the aged, blind, and disabled programs may have a total of no more than $1,500 of resources (e.g., money, stocks, bonds, and life insurance) to be eligible for Medicaid. However, when total countable resources are in excess of $1,500, the individual would have to spend down for incurred expenses of care an amount equal to the excess resources.

The state currently exempts from consideration as a resource any insurance policy that is assigned to anyone, so this provision would have no impact in that instance. If the state is assigned the policy, the state would have ownership of the death benefit, as well as any cash value that might exist.

On the other hand, if the state is irrevocably named the beneficiary of a policy with a cash value, the Medicaid recipient would presumably still have access to the cash value of the policy. However, if the policy is ever surrendered for the cash value (after the value of the policy had been exempted from consideration as a resource), then according to current Medicaid statute, the individual must report the change in cash resources to the Office and the cash would be considered as a resource in the eligibility determination. The provision could expand eligibility for the program to some extent and require the use of staff resources to implement the provision and track current and former Medicaid recipients for the purpose of collecting on the life insurance policies. The Medicaid Program is restricted by the bill to recovering only the value of the policy equivalent to the state's expenses of providing services under the Medicaid Program.

In the event of the state's being named beneficiary, there would also be a timing impact associated with the later receipt of the death benefit (provided under the bill) as compared to the reduction of Medicaid expenditures because of the applicant's spend down (which under current practice occurs before the individual becomes eligible).

Explanation of State Revenues: See *Explanation of State Expenditures*, above, regarding federal financial participation in the Medicaid program.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Office of Medicaid Policy and Planning.

Local Agencies Affected:

Information Sources: Mary Ann Hack, Office of Medicaid Policy and Planning, (317) 232-1034; Jenna Walls, FSSA, 317-234-1594.

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